

SUMMARY ANALYSIS OF AMENDED BILL

Author: Cannella, et al. Analyst: William Koch Bill Number: SB 358
 Related Bills: See Prior Analysis Telephone: 845-4372 Amended Date: May 23, 2011
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exclusion & Basis Reduction/Amounts Provided By State Air Resources Board, Air Pollution Control Districts, And Air Quality Management Districts For Air Pollution

SUMMARY

This bill would exclude from tax air pollution reduction grants made by the State Air Resources Board, air pollution control districts, and air quality management districts.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

SUMMARY OF AMENDMENTS

The May 23, 2011, amendments would require the basis of any property acquired with an air pollution reduction grant or other amount, as specified, to be reduced by such amount. As a result of the May 23, 2011, amendments, the "This Bill," "Economic Impact," and "Policy Concerns" sections of the department's analyses of this bill as introduced February 15, 2011, and as amended April 26, 2011, have been revised. The "Implementation Considerations" section has been restated for convenience.

THIS BILL

This bill, under the Personal Income Tax Law and the Corporation Tax Law, would exclude from gross income any amount provided by the State Air Resources Board, air pollution control districts, and air quality management districts to any person for the purpose of air pollution reduction. The basis of property for determining gain or loss on the sale or disposition, as well as for determining depreciation, would be reduced to the extent the property was acquired with any amount excluded from gross income under this bill.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

Board Position:

_____ S	_____ NA	<u> X </u> NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	

Legislative Director

Date

Brian Putler

06/09/11

This bill fails to specify how the Franchise Tax Board (FTB) would determine or verify if payments provided by the State Air Resources Board, air pollution control districts, and air quality management districts were for the purpose of air pollution reduction. To reduce disputes between the department and taxpayers, as well as to ease administration of this bill, the author may wish to amend the bill to: (1) require the State Air Resources Board, air pollution control districts, and air quality management districts to provide certification to taxpayers that a payment is for air pollution reduction, (2) require taxpayers to submit such certification to the FTB upon request, and (3) require the State Air Resources Board, air pollution control districts, and air quality management districts to provide the FTB a data file annually containing information relating to the payments and the recipients.

In addition, the bill lacks a definition for “air pollution control district” and “air quality management district.” As written, the exclusion from gross income and basis adjustment would apply to payments from such a district whether the district is located in California or otherwise. It is unclear if it is the author’s intent for the exclusion from gross income and basis adjustment to apply to payments from out-of-state air quality entities.

Finally, the provisions of the bill that would require a basis adjustment for property acquired with any amount provided by the State Air Resources Board, air pollution control districts, and air quality management districts for the purpose of air pollution reduction are not statutorily linked with the provisions of the bill that would provide an exclusion from gross income for such amounts. To prevent disputes between taxpayers and the department, the author may wish to amend the bill to link by statute the provisions that would require a basis adjustment with the provisions that would provide an exclusion from gross income.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of SB358 As amended May 23, 2011, For Taxable Years Beginning On or After January 1, 2011, Enactment Assumed After June 30, 2011 (\$ in Millions)				
2010-11	2011-12	2012-13	2013-14	2014-15
\$0.0	-\$8.2	-\$3.3	-\$1.3	-\$0.2

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

POLICY CONCERNS

This bill would create differences between federal and California tax law. Amounts provided by the State Air Resources Board, air pollution control districts, and air quality management districts for the purpose of air pollution reduction would continue to be generally taxable by the IRS. In addition, the basis of property purchased with such amounts would be different for federal and state tax purposes. These differences would increase the complexity of California tax return preparation.

LEGISLATIVE STAFF CONTACT

William Koch
Legislative Analyst, FTB
(916) 845-4372
william.koch@ftb.ca.gov

Brian Putler
Legislative Director, FTB
(916) 845-6333
brian.putler@ftb.ca.gov